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HOUSE BILL 445

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Gloria C. Vaughn

AN ACT

RELATING TO DOMESTIC AFFAIRS; CLARIFYING THE LEGAL EFFECT OF MARRIAGE; PROVIDING PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 40, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SAME-SEX MARRIAGES PROHIBITED. -- A marriage between persons of the same sex is prohibited and expressly against the public policy of this state."

Section 2. A new section of Chapter 40, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] "MARRIAGE" DEFINED. -- In determining the meaning of a statute or rule or any interpretation of a statute or rule by an agency or instrumentality of the state or a

underscored material = new
[bracketed material] = delete

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[bracketed material] = delete

1 political subdivision of the state:

2 A. "marriage" means a legal union between one man
3 and one woman as husband and wife; and

4 B. "spouse" means a party to a marriage and who is
5 the opposite sex of the other party to the marriage."

6 Section 3. Section 40-1-1 NMSA 1978 (being Laws 1862-
7 1863, p. 64, as amended) is amended to read:

8 "40-1-1. CIVIL CONTRACT. -- [~~Section 1.~~]

9 A. Marriage is contemplated by the law as a civil
10 contract for which the consent of the contracting parties,
11 capable in law of contracting, is essential.

12 B. The contracting parties to a marriage are one
13 man and one woman."

14 Section 4. Section 40-1-4 NMSA 1978 (being Laws 1862-
15 1863, p. 64, as amended) is amended to read:

16 "40-1-4. FOREIGN MARRIAGES RECOGNIZED. -- [~~Sec. 5.~~]

17 A. All marriages celebrated beyond the limits of
18 this state [~~which~~] that are valid according to the laws of the
19 country [~~wherein~~] in which they were celebrated or contracted
20 shall be [~~likewise~~] valid in this state and shall have the same
21 force as if they had been celebrated in accordance with the
22 laws in force in this state.

23 B. Notwithstanding the provisions of Subsection A
24 of this section, a marriage between persons of the same sex, or
25 any right or claim arising from their relationship, shall not

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[bracketed material] = delete

1 be valid, binding or enforceable in New Mexico even if the
2 marriage or any right or claim is valid, binding or enforceable
3 in another jurisdiction."

4 Section 5. Section 40-1-8 NMSA 1978 (being Laws 1876,
5 Chapter 31, Section 3, as amended) is amended to read:

6 "40-1-8. PENALTIES. -- [~~See. 8.~~] If any person prohibited
7 from contracting marriage by [~~the foregoing sections, shall~~
8 ~~violate~~] Sections 40-1-1 through 40-1-7 NMSA 1978 violates the
9 provisions [~~thereof~~] of those sections by contracting marriage
10 contrary to the provisions of [~~said~~] those sections, [~~he or~~
11 ~~they~~] the person shall be [~~punished by fine on conviction~~
12 ~~thereof in any sum not less than~~] fined fifty dollars (\$50.00).
13 [~~and. Every~~] A person authorized [~~under the laws of this~~
14 ~~state~~] to [~~celebrate~~] perform marriages who [~~shall unite~~
15 unites in wedlock [~~any of the persons~~] a person whose marriage
16 is declared invalid by [~~the previous~~] those sections [~~of this~~
17 ~~chapter on~~] upon conviction [~~thereof~~] shall be fined [~~in any~~
18 ~~sum not less than~~] fifty dollars (\$50.00)."

19 Section 6. EFFECTIVE DATE. -- The effective date of the
20 provisions of this act is July 1, 2005.